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HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD			SINES, BRIAN J	
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Please find below and/or attached an Office communication concerning this application or proceeding.

			A			
Office Action Summers		Application No.	Applicant(s)			
		09/661,617	SPIEGELMAN, JEFFREY J.			
	Office Action Summary	Examiner	Art Unit			
- 		Brian J. Sines	1743			
Period fo	The MAILING DATE of this communication app or Reply	pears on the cover sheet with the	correspondence address			
THE - Exte after - If the - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPL'MAILING DATE OF THIS COMMUNICATION. Insions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. It is period for reply specified above is less than thirty (30) days, a reply operiod for reply is specified above, the maximum statutory period of the provided of the provided above, the maximum statutory period of the provided of the provided above, the maximum statutory period of the provided of the provided above, the maximum statutory period of the provided of the provided above.	36(a). In no event, however, may a reply be till y within the statutory minimum of thirty (30) day will apply and will expire SIX (6) MONTHS from a REANDONE. cause the application to become ABANDONE.	mely filed ys will be considered timely. the mailing date of this communication. TD (35 U.S.C. \$ 133)			
Status	•		•			
1)⊠	Responsive to communication(s) filed on 7/27/	/2004.				
2a)						
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
Dispositi	ion of Claims					
5)□ 6)⊠ 7)□	Claim(s) <u>1 and 3-29</u> is/are pending in the appli 4a) Of the above claim(s) is/are withdray Claim(s) is/are allowed. Claim(s) <u>1 and 3-29</u> is/are rejected. Claim(s) is/are objected to. Claim(s) are subject to restriction and/or	vn from consideration.				
Applicati	on Papers					
9)[The specification is objected to by the Examine	r.				
10)	The drawing(s) filed on is/are: a)☐ acco	epted or b) objected to by the	Examiner.			
	Applicant may not request that any objection to the	- · ·	• •			
11)	Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the Ex					
Priority u	ınder 35 U.S.C. § 119					
a)[Acknowledgment is made of a claim for foreign All b) Some * c) None of: 1. Certified copies of the priority documents 2. Certified copies of the priority documents 3. Copies of the certified copies of the priority application from the International Bureausee the attached detailed Office action for a list of	s have been received. s have been received in Applicati ity documents have been receive ı (PCT Rule 17.2(a)).	on No ed in this National Stage			
Attachment	t(s)					
1) Notice 2) Notice 3) Inform	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	4) Interview Summary Paper No(s)/Mail Da 5) Notice of Informal P 6) Other:				

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 3 – 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Regarding claims 1, 28 and 29, the specification does not support the recited negative limitation that the automatic identification of the fluid purification equipment is being performed in a manner free of the user selection of individual components. The specification, for example on p. 12, lines 4 - 14, discloses that the method incorporates the step of a user selecting individual components of the fluid purification system, and not strictly a method which is entirely free of user selected individual components.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

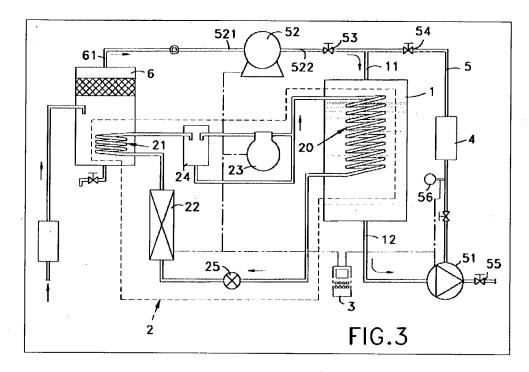
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The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.
- 2. Ascertaining the differences between the prior art and the claims at issue.
- 3. Resolving the level of ordinary skill in the pertinent art.
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 3 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang (U.S. Pat. No. 5,873,263 A) in view of Hanson *et al.* (U.S. Pat. No. 5,315,521 A), and further in view of Beelitz *et al.* (U.S. Pat. No. 6,182,275 B1). Regarding claims 1, 14, 28 and 29, Chang teaches a fluid purification system, which comprises various types of equipment, such as a filter device (4), a transfer pump (51), a piping system (5), various sensors (56), a cooling vessel (1), a distillation device (6), *etc.* (see col. 3, lines 27 - 67; col. 4, lines 1 - 16; & figures 3 - 5). Chang does not specifically teach the optimization of the disclosed system. However, the optimization of fluid purification systems through process equipment selection and operation is notoriously well known in the art, as evidenced, for example, by Hanson *et al.* (see col. 1, lines 55 - 67). Therefore, it would have been obvious to one of ordinary skill in the art to optimize the fluid purification system, as taught by Chang, through the use of optimization techniques well known in the art, in order to facilitate the efficient and effective operation of the fluid purification system.

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Chang does not specifically teach a method for identifying fluid purification equipment, which is optimized for use in a particular fluid purification system, wherein the method comprises the steps of: providing a relational database of equipment specifications regarding a plurality of equipment components from which a selection of individual components may be made; providing access to the relational database through an interactive interface of an operating system comprising a series of sequential inquiries, wherein the response to each determines the next type of inquiry to be posed or a component to be specified, wherein the inquiries elicit defining information regarding the particular fluid purification system; and using the defining information to identify those equipment components specific to the particular fluid purification system selected, can be operated so as to optimize the selected fluid purification system. However, Beelitz *et al.* teach a method incorporating the use of a computer system readable relational database and an interactive user interface in configuring, building and selling a customizable computer system (see col. 2, lines 20 – 67; col. 3, lines 32 – 43; & col. 4, lines 5 –

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62). The Courts have held that "[a] reference is reasonably pertinent if, even though it may be in a different field of endeavor, it is one which, because of the subject matter with which it deals logically would have commended itself to an inventor's attention in considering his problem." (emphasis added). See In re Clay, 23 USPQ2d 1058 (CAFC 1992); & In re GPAC, Inc., 35 USPQ2d 1116 (Fed. Cir. 1995). If a reference disclosure relates to the same problem as that addressed by the claimed invention, "that fact supports use of that reference in an obviousness rejection. An inventor may well have been motivated to consider the reference when making his invention." Id. (emphasis added). The Beelitz et al. reference relates effectively to the same problem and solution as that addressed by the claimed invention. Hence, one of ordinary skill in the art would have recognized the suitability of applying the same or similar method, as disclosed by Beelitz et al., incorporating the use of relational databases and an interactive interface, for the same intended purpose of configuring, building and selling a similarly customizable product, such as a fluid purification system, as taught by Chang (see MPEP § 2144.07). Furthermore, one of ordinary skill in the art would have had a reasonable expectation of success in applying the methodology, as taught by Beelitz et al., in the configuring and selling of a customizable fluid purification system (see MPEP § 2143.02). The Courts have held that the prior art can be modified or combined to reject claims as prima facie obvious as long as there is a reasonable expectation of success. See In re Merck & Co., Inc., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, the Courts have held that to provide an automatic or mechanical means to replace manual activity, which accomplishes the same result, is within the ambit of one of ordinary skill in the art. See *In re Venner*, 120 USPO 192 (CCPA 1958). The use of such a computer system-based method, as taught by Chang in

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view of Beelitz et al., merely substitutes or replaces a manual methodology of consulting print references, such as operating manuals or equipment catalogs, in process design and optimization, which are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to provide a method for identifying fluid purification equipment, which is optimized for use in a particular fluid purification system, wherein the method comprises the steps of: providing a relational database of equipment specifications regarding a plurality of equipment components from which a selection of individual components may be made; providing access to the relational database through an interactive interface of an operating system comprising a series of sequential inquiries, wherein the response to each determines the next type of inquiry to be posed or a component to be specified, wherein the inquiries elicit defining information regarding the particular fluid purification system; and using the defining information to identify those equipment components specific to the particular fluid purification system selected, can be operated so as to optimize the selected fluid purification system, in order to provide an effective method for identifying fluid purification equipment for an optimized fluid purification system. It would have been obvious to one of ordinary skill in the art to incorporate within the method further inquiries, which elicit defining information regarding the operating parameters of the fluid purification system, as such information would be necessary in order to optimize the system effectively, as is well known in the art. Regarding the newly added amendment reciting that the method of identifying the fluid purification equipment is performed in a manner free of the user selecting individual components, Beelitz et al. do teach and fairly suggest such a methodology. Beelitz et al. do teach that instead of offering the user an explicit choice of an individual component, the disclosed method automatically determines the parameters of the hardware

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components, such as computer RAM size and the computer operating system (see col. 18, line 45 - col. 19, line 19). Consequently, a person of ordinary skill in the art would have had a reasonable expectation of success of incorporating a method step of automatically identifying components in a manner which is free of the user selecting individual components (see MPEP § 2143.02). Therefore, it would have been obvious to a person of ordinary skill in the art to incorporate a methodology of automatically identifying a set of compatible components which is performed in a manner free of permitting the user to select individual components. Regarding claim 3, it would have been obvious to one of ordinary skill in the art to incorporate the selection of equipment operating parameters, such as fluid type and flow rate, as such information would be necessary in order to optimize the system effectively, as is well known in the art. Regarding claims 4 and 5, Beelitz et al. teach that a first database or first list of options comprises a plurality of subdatabases or a second list of options, wherein each of the second plurality of options is compatible with the first selected option choice (see col. 2, lines 20-67). Therefore, in applying the method of Beelitz et al., it would have been obvious to one of ordinary skill in the art to provide a subdatabase comprising selection information regarding at least one property of at least one of the equipment components of the fluid purification system in order to facilitate operational compatibility of the equipment components comprising the fluid purification system and including the optimization of the performance of the system. Regarding claim 6, Beelitz et al. teach that the subdatabases or secondary plurality of options are addressed sequentially. Beelitz et al. teach that the method comprises the steps of providing a user interface comprising a first list of options, receiving from the user interface an indication of a selected choice from the first list of options presented to the user via the user interface, and then generating a second list

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of options (see col. 2, lines 52-67). Regarding claim 7, Beelitz et al. teach that the entry for each option of the list includes an indication of compatibility with the selected operating system. Each option of the second list is compatible with the selected choice selected from the first plurality of options (see col. 2, lines 20-67). Therefore, it would have been obvious to one of ordinary skill in the art to incorporate a method step wherein the compilation of a series of component equipment selections further causes the computer operating system to generate a subsequent series of inquiries regarding the choice of equipment components which are compatible or ancillary to the fluid purification system in order to provide for an optimally performing fluid purification system. Regarding claim 8, Chang teaches that the purification system comprises fluid flow (e.g., piping system 5), process control (e.g., sensor 56) and instrumentation equipment (e.g., heating device 21) (see col. 3, lines 36 - 67 & col. 4, lines 1 -16). It would have been obvious to one of ordinary skill in the art to incorporate the selection of such equipment in order to facilitate the effective design and optimization of the fluid purification process. Regarding claim 9, Beelitz et al. teach the incorporation of cost information for indicating the cost of the particular system component part and including stock number information for indicating the number of parts in inventory (see col. 17, lines 49 - 61). Therefore, it would have been obvious to one of ordinary skill in the art to further incorporate data for evaluating from each of the responses from the user whether a defined equipment component is currently in inventory and available and if not, what the manufacturing costs would be for the particular equipment component, in order to facilitate effective fluid purification system design and optimization. Regarding claim 10, Beelitz et al. teach that the entry for each option of the first list includes an indication of compatibility with the selected operating system

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and wherein each option of the generated second list is compatible with the selected choice selected from the first plurality of options (see col. 2, lines 20 - 67% col. 3, lines 1 - 43). Therefore, it would have been obvious to one of ordinary skill in the art to further incorporate equipment selection information, which comprises data for evaluating from each of the responses whether combinations of defined equipment components are operationally compatible and presenting an indication or notification thereof, in order to facilitate effective fluid purification system design and optimization. Regarding claims 11 and 12, Beelitz et al. teach the step of generating a list of compatible options based upon at least one selected choice by a user from a first list of options (see col. 2, lines 20-67 & col. 3, lines 1-43). Therefore, it would have been obvious to one of ordinary skill in the art to further provide a notification including a suggested list of options for alternative compatible equipment combinations for the system, in order to provide for the effective design and optimization of the fluid purification system. Regarding claim 13, it is considered a latent property that each of the different equipment combinations would have differ from each other with respect to technical parameters, such as required flow rate and operating pressure, and economic parameters, such as manufacturing and operating cost. It would have been obvious to one of ordinary skill in the art to incorporate different combinations of equipment, which differ with respect to technical and economic parameters, and wherein the method further comprises the step of generating a further inquiry, in which the response to the inquiry indicates a selection among the equipment combinations a specific equipment combination having the technical and economic parameters most suitable for obtaining an optimized fluid purification within the fluid purification system, in order to provide for an optimized fluid purification process. Regarding claim 15, Chang does teach the use of

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filtering during fluid purification and recovery (see col. 4, lines 10-16). The removal of contaminants to a prescribed level in a parts per million or parts per billion range is considered a latent property of the disclosed fluid purification system. It would have been obvious to one of ordinary skill in the art to incorporate the use of an operating parameter, such as a prescribed contaminant level, in order to properly design and optimize the fluid purification process. Regarding claim 16, Chang teaches that the purification process comprises separation or filtration (see Abstract). Regarding claim 17, Beelitz et al. teach that access to the system is provided by means of a computer through a global computer network, such as the internet (see Abstract). Regarding claims 18 – 27, Beelitz et al. teach the computer system-based apparatus, as recited in the instant claims, for performing the claimed method. Regarding claims 18 and 19, Beelitz et al. teach an apparatus comprising an electronic media, which can comprise the claimed method in a form accessible for interactive use, such as in the form of a software program, and further comprising a relational database (see col. 2, lines 9-51). Regarding claims 20-22, Beelitz et al. teach that the relational database may comprise a plurality of subdatabases, such as a secondary plurality of option listings. It would have been obvious to one of ordinary skill in the art to utilize the computer system, as taught by Beelitz et al., in implementing the method, as taught by Chang in view of Beelitz et al., since these computer systems are notoriously well known in the art for implementing such methods, as evidenced by Beelitz et al. Regarding claims 23 and 24, Beelitz et al. teach that the computer system incorporates the use of an interactive storage media, such as a memory hard drive, CD-ROM drive or a DVD drive, disposed within the computer system (see col. 1, lines 36 - 55). Regarding claim 25, Beelitz et al. teach that the computer system comprises a desktop computer,

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a portable notebook or laptop computer, or an internet-access-specific computer (see col. 1, lines 36-55). Regarding claims 26 and 27, Beelitz *et al.* teach that the electronic media comprises a global computer network, such as a computer system having access to a communications network and to the internet (see col. 1, lines 36-55; & col. 3, lines 32-43). The use of internet websites in conducting commercial transactions are notoriously well known in the art (see MPEP § 2144.03).

Response to Arguments

Applicant's arguments filed 7/27/2004 have been fully considered, but they are not persuasive.

The applicant essentially asserts that the Beelitz *et al.* methodology is incompatible for use with the applicant's methodology of identifying fluid purification equipment, which is optimized for use in a particular fluid purification system. The applicant alleges that the fact that a set of selected components may be "compatible" for implementation on a target computer system does not necessarily mean that the resulting system is capable of satisfying the desired operating parameters. Contrary to these allegations by the applicant, Beelitz *et al.* teach that a computer system is configured to satisfy certain desired operating parameters selected by the user. For example, Beelitz *et al.* teach that the system presents a list of a first plurality of options or parameters for selection by the user. Based upon which parameters are selected, the system generates a second plurality of options, which are compatible with the first selected option (see col. 2, lines 20 - 67). The applicant further alleges that in the disclosure of Beelitz *et al.*, the user must have knowledge that the particular selection of components will yield the desired operating parameters that are expected of the desired computer system. Contrary to this allegation, Beelitz

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et al. teach that only compatible choices are presented to the user during the component selection process. Beelitz et al. teach that the user does not have to be sophisticated in the language of computer equipment or computer software programs to be able to specify and/or order a build-to-order computer system (see col. 3, lines 26 – 42). Therefore, contrary to the assertions of the applicant, a user does not have to have specific knowledge that the particular selection of equipment components will yield the desired operating parameters that are expected of the desired computer system, since these equipment components are presented to the user. In response to applicant's argument that Beelitz et al. involve non-analogous art relative to the teachings of Chang and Hansen et al., it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See In re Oetiker, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the Courts have held that "[a] reference is reasonably pertinent if, even though it may be in a different field of endeavor, it is one which, because of the subject matter with which it deals logically would have commended itself to an inventor's attention in considering his problem." (emphasis added). See In re Clay, 23 USPQ2d 1058 (CAFC 1992); & In re GPAC, Inc., 35 USPQ2d 1116 (Fed. Cir. 1995). If a reference disclosure relates to the same problem as that addressed by the claimed invention, "that fact supports use of that reference in an obviousness rejection. An inventor may well have been motivated to consider the reference when making his invention." Id. (emphasis added). In considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference, but also the inferences, which one skilled in the art would reasonably be expected to draw therefrom. See

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In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1986). The applicant is advised that the Courts have held that "[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination." See In re Bond, 910 F.2d 831, 15 USPO2d 1566, 1568 (Fed. Cir. 1990) (quoting Carella v. Starlight Archery and Pro Line Co., 804 F.2d 135, 140, 231 USPO 644, 647 (Fed. Cir. 1986)). However, the "suggestion to modify the art to produce the claimed invention need not be expressly stated in one or all the references used to show obviousness." See Cable Elec. Prods., Inc. v. Genmark, Inc., 770 F.2d 1015, 1025, 226 USPQ 881, 886 (Fed. Cir. 1985). Rather, the test is whether the combined teachings of the prior art, taken as a whole. would have rendered the claimed invention obvious to one of ordinary skill in the art. See In re Gorman, 933 F.2d 982, 986, 18 USPQ2d 1885, 1888 (Fed. Cir. 1991). The Courts have held that "[t] here are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." See In re Rouffet, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457 & 1458 (Fed. Cir. 1998) (see MPEP § 2143.01). The Beelitz et al. reference relates effectively to the same problem and solution as that addressed by the claimed invention. Hence, one of ordinary skill in the art would have recognized the suitability of applying the same or similar method, as disclosed by Beelitz et al., incorporating the use of relational databases and an interactive interface, for the same intended purpose of configuring, building and selling a similarly customizable product, such as a fluid purification system, as taught by Chang (see MPEP § 2144.07). Furthermore, one of ordinary skill in the art would have had a reasonable expectation of success in applying the methodology, as taught and effectively demonstrated by Beelitz et al.,

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in the configuring and selling of a customizable fluid purification system (see MPEP § 2143.02). The Courts have held that the prior art can be modified or combined to reject claims as prima facie obvious as long as there is a reasonable expectation of success. See In re Merck & Co., Inc., 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In addition, the Courts have held that to provide an automatic or mechanical means to replace manual activity, which accomplishes the same result, is within the ambit of one of ordinary skill in the art. See *In re Venner*, 120 USPO 192 (CCPA 1958). The use of such a computer system-based method, as taught by Chang in view of Beelitz et al., merely substitutes or replaces a manual methodology of consulting print references, such as operating manuals or equipment catalogs, in process design and optimization, which are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art to provide a method for identifying fluid purification equipment, which is optimized for use in a particular fluid purification system, wherein the method comprises the steps of: providing a relational database of equipment specifications regarding a plurality of equipment components from which a selection of individual components may be made; providing access to the relational database through an interactive interface of an operating system comprising a series of sequential inquiries, wherein the response to each determines the next type of inquiry to be posed or a component to be specified, wherein the inquiries elicit defining information regarding the particular fluid purification system; and using the defining information to identify those equipment components specific to the particular fluid purification system selected, can be operated so as to optimize the selected fluid purification system, in order to provide an effective method for identifying fluid purification equipment for an optimized fluid purification system. Regarding the newly added amendment reciting that the method of identifying the fluid

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purification equipment is performed in a manner free of the user selecting individual components, Beelitz *et al.* do teach and fairly suggest such a methodology. Beelitz *et al.* do teach that instead of offering the user an explicit choice of an individual component, the disclosed method automatically determines the parameters of the hardware components, such as computer RAM size and the computer operating system (see col. 18, line 45 – col. 19, line 19). Consequently, a person of ordinary skill in the art would have had a reasonable expectation of success of incorporating a method step of automatically identifying components in a manner which is free of the user selecting individual components (see MPEP § 2143.02). Therefore, it would have been obvious to a person of ordinary skill in the art to incorporate a methodology of automatically identifying a set of compatible components which is performed in a manner free of permitting the user to select individual components.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines, Ph.D. whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (11:30 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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